

1 UNITED STATES BANKRUPTCY COURT
2 CENTRAL DISTRICT OF CALIFORNIA
3 RIVERSIDE DIVISION

4 In re:) Case No. RS 04-14498 PC
5)
6 PLUMBEREX SPECIALTY) Chapter 11
7 PRODUCTS, INC.,)
8) Date: May 19, 2005
9) Time: 9:30 a.m.
Debtor(s).) Place: U.S. Bankruptcy Court
Courtroom 303
3420 Twelfth Street
Riverside, CA 92501

10 *At the above captioned date and time, the court considered the Second Application for*
11 *Interim Fees and Expenses by Law Offices of Robert J. Schaap, Special Litigation Counsel for*
12 *Debtor and Debtor-In-Possession. The following is the text of the court's final ruling which is*
13 *attached to the minutes of the hearing. Because the court has determined that the disposition*
14 *constitutes a "reasoned explanation" for the court's decision within the scope of the E-*
15 *Government Act of 2002, the final ruling is posted to the court's Internet site,*
16 *www.cacb.uscourts.gov, in a text-searchable format as required by the act. The official record*
17 *remains with the minutes of the hearing.*

18 **FINAL RULING**

19 Law Offices of Robert J. Schaap ("Schaap"), intellectual property counsel to the debtor in
20 possession, has filed its second application for an interim allowance of fees and expenses in this
21 case. Schapp has itemized \$164,915.75 in fees and \$12,827.43 of costs, for a total of
22 \$177,743.18. Watertite Products, Inc. ("Watertite") has filed an objection to the application.

23 The court approved Schaap's employment on May 1, 2004. Schaap rendered a total of
24 528.75 hours of services to the estate billed at a blended hourly rate of \$311.90. Schaap's
25 itemized services cover the period from September 16, 2004 through March 31, 2005.
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2 11 U.S.C. Section 330(a)(1)(A) & (B) permits approval of “reasonable compensation for
3 actual, necessary services rendered by . . . [a] professional person, or . . . any para-professional
4 person” and “reimbursement for actual, necessary expenses.” In the present case, the debtor
5 employed Schaap to assist it in the reorganization. Schaap’s services included research and
6 preparation of debtors' brief as appellant in the Patent case, research and preparation of debtor's
7 reply brief in the Patent case, and assisting the debtor in mediation with Watertite.

9 Watertite objects to allowance of the fees and seeks a 20% fee reduction for inadequate
10 time entries. Watertite points out that Schaap billed in increments of one-quarter of an hour
11 rather than one-tenth of an hour as required by L.B.R. 2016-1(a)(1)(E). Watertite also claims
12 that Schaap's services were duplicative of services rendered by other professionals, Van Etten,
13 BSKS and Scillieri, retained to assist debtor in the Patent and Antitrust cases. Watertite further
14 argues that Van Etten, Schaap, BSKS and Scillieri together failed to exercise proper billing
15 judgment on work performed for the estate, noting, for example, that the firms billed over 400
16 hours on the Patent case during the period for which interim fees are sought, aggregating to fees
17 of over \$160,000.

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20 Watertite's objection is sustained, in part, and denied, in part. In awarding fees under
21 section 330(a), the court must consider whether the services were necessary to the administration
22 of, or beneficial at the time at which the service was rendered toward completion of, a case under
23 title 11. 11 U.S.C. Section 330(a)(3)(C). In making such a determination, the court considers,
24 among other factors, whether the services were performed within a reasonable amount of time
25 commensurate with the complexity, importance, and nature of the problem, issue or task
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1 addressed. 11 U.S.C. Section 330(a)(3)(D). Professionals employed under section 327 must
2 make a good faith effort to exclude from fee requests hours that are excessive, redundant,
3 unjustified, or otherwise unnecessary. Unsecured Creditors' Committee v. Puget Sound
4 Plywood, Inc., 924 F.2d 955, 961 (9th Cir. 1991); *see* In re Riverside Linden Inv. Co., 925 F.2d
5 320, 322 (9th Cir. 1991).

7 Schaap has the burden of establishing that its services were compensable legal services,
8 and that such legal services were necessary to the proper and effective administration of the
9 estate. Here, Schaap must provide evidence in the form of declarations and comprehensive time
10 records establishing that the legal services for which it seeks compensation did not duplicate
11 those rendered by Van Etten, BSKS or Scillieri, and that Schaap exercised appropriate billing
12 judgment for its services when viewed in conjunction with those rendered by Van Etten, BSKS
13 and Scillieri on the Patent case and the Watertite mediation. Without more information, the
14 court is unable to make a finding that all of such services were necessary nor that Schaap has
15 exercised proper billing judgment in seeking compensation for such services.

17 Based on the foregoing, the court will approve an interim allowance and payment of
18 \$115,440.75 of the \$164,915.75 in compensation sought by Schaap, without prejudice to
19 Schaap's right to seek allowance and payment of the balance of \$49,475 in fees in a further
20 application addressing the concerns set forth above. The court will also approve \$12,827.43 as
21 actual, necessary expenses in this case. This interim fee allowance is subject to the court's
22 reexamination and adjustment in making a final determination of the nature, extent and value of
23 the services performed upon the conclusion of the case. Leichty v. Neary (In re Strand), 375
24 F.3d 854 (9th Cir. 2004).

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